

REMARKS

By this paper, claims 1, 8 and 29 have been amended and claim 28 has been canceled. Claims 1-15, 17, 19-27 and 29 remain pending.

In the outstanding Office action dated November 16, 2006, claims 1-15, 17 and 19-29 were rejected under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Thome et al. (5,776,080) in view of Fagan et al. (WO 96/25969). Notably, in rejecting claim 28, the Examiner stated that "a second layer (158) is disposed at least in part concentrically about the first layer, the second layer of substantially the same material as the first layer (Thome)." In rejecting claim 8, the Examiner stated that the recited "flexible body overlying the distal section" was taken to be the superelastic layer (178). Moreover, regarding claim 26, the Examiner stated that "Thome further discloses a flexible coil (162, 182) disposed at a distal end of the guidewire, wherein the precipitation hardened material and superelastic material extend from the proximal section to at least through a part of a length of the flexible coil." Additionally, with respect to claim 27, the Examiner stated that "Thome further discloses that the distal section is tapered (Fig. 27)."

It is respectfully submitted, however, that now pending independent claims 1, 8, 26 and 27 recite subject matter which is patentable over the cited art. In particular, amended claim 1 now recites a heat-treated elongate member including a composite elongate core having an inner core formed of a precipitation hardened material and a layer formed of a superelastic material, as well as a second layer concentrically arranged about the layer formed of the superelastic material. Significantly, the Thome et al. patent does not teach such structure since the metallic layer 178 forms an outer most surface of the Thome et al. device and thus, Thome et al. does not contemplate a second layer concentrically arranged about a layer formed of superelastic material.

Further, Thome et al. does not teach the subject matter of independent claim 8 or its dependent claims in that it does not disclose a heat-treated elongate member including a flexible body at least partially overlying a distal section of a composite elongate core formed of a precipitation hardened material concentrically surrounded by a first layer formed of a superelastic material, the flexible body defining structure distinct from the first layer. Accordingly, independent claim 8 requires that the flexible body define structure other than the superelastic layer (178) disclosed by Thome et al. and as such, claim 8 and its dependent claims recite subject matter which is allowable over the Thome et al. patent.

Furthermore, it is respectfully submitted that the Thome et al. patent neither anticipates nor renders obvious the subject matter recited in independent claims 26 and 27. Notably, claim 26 recites a guidewire including a flexible coil disposed at a distal end of a distal section of a composite elongate core and independent claim 27 recites a heat-treated elongate member including a flexible body disclosed at a distal end of a distal section of a composite elongate core including an elongate core formed of a precipitation of hardened material concentrically surrounded by a layer formed of a superelastic material, wherein the precipitation hardened material and superelastic material extend through at least a part of a length of the flexible body. Significantly, the multi-layered strands 182 upon which the Examiner relies as defining a flexible coil are shown in the drawings as terminating proximal of a distal end of the devices discloses in Thome et al. Moreover, the multi-layered strands 182 are described in Thome et al. as providing the operative segment 150 (defined as similar to operative segment 52 [proximal portion of guidewire 36]) with increased pushability and torquability performance. Therefore, the Thome et al. patent clearly does not teach a guidewire having a flexible coil disposed at a distal end of a distal section as is recited in independent claim 26 or for that matter, a heat-treated elongate member including a flexible body disposed at a distal end of the distal section as recited in

independent claim 27. Accordingly, it is respectfully submitted that claims 26 and 27 also define subject matter which is allowable over the cited art.

CONCLUSION

Applicants have attempted to completely respond to the outstanding Office action. In view of the above amendments and remarks, Applicants respectfully request that the application be reconsidered, the claims allowed and the application passed to issue.

Respectfully submitted,

FULWIDER PATTON LLP

By: /John V. Hanley/
John V. Hanley
Registration No. 38,171

JVH:kst
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
156135.1